



February 28, 2014

---

---

# ENGROSSED HOUSE BILL No. 1351

---

DIGEST OF HB 1351 (Updated February 27, 2014 11:06 am - DI 84)

**Citations Affected:** IC 12-7; IC 12-14; noncode.

**Synopsis:** Welfare matters; drug testing. Requires the division of family resources to establish a statewide program that prohibits Temporary Assistance for Needy Families (TANF) assistance from  
(Continued next page)

**Effective:** Upon passage; July 1, 2014.

---

---

**McMillin, Koch, Kubacki, Messmer,  
Culver, Neese, Harman, Frye R,  
Ober, Huston, Smaltz, Rhoads,  
DeVon, Mahan, Lucas, Morris,  
VanNatter, Braun, Turner, Burton,  
Ubelhor, Speedy**

(SENATE SPONSORS — YOUNG R MICHAEL, YODER, MISHLER,  
HERSHMAN, SMITH J)

---

---

January 15, 2014, read first time and referred to Committee on Family, Children and Human Affairs.

January 23, 2014, amended, reported — Do Pass.

January 27, 2014, read second time, amended, ordered engrossed.

January 28, 2014, engrossed. Read third time, passed. Yeas 71, nays 22.

SENATE ACTION

February 10, 2014, read first time and referred to Committee on Health and Provider Services.

February 20, 2014, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.

February 27, 2014, reported favorably — Do Pass.

---

---

EH 1351—LS 7130/DI 110



## Digest Continued

being used for any food, food product, or beverage that is not permitted to be purchased under the Supplemental Nutrition Assistance Program (SNAP) program. Requires the office of the secretary of family and social services (office) to administer a drug testing program (program) for individuals who have been convicted of a controlled substance offense and are applying for or receiving TANF assistance or receiving TANF assistance on behalf of a child. Establishes requirements for the program and ineligibility penalties. Prohibits an individual who is ineligible to receive TANF assistance under the program from receiving assistance on behalf of a child and provides for an exception. Requires the office to collect data to assess and avoid discrimination in the program. Requires the office to provide information to the Indiana housing and community development authority and any division of the office that implements the federal Supplemental Nutrition Assistance Program concerning an individual who tests positive for controlled substances. Requires the department of workforce development to submit a report to the legislative council and the unemployment insurance oversight committee concerning certain unemployment topics.

**EH 1351—LS 7130/DI 110**



February 28, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1351

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 12-7-2-43.3 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2014]: **Sec. 43.3. "Controlled substance", for purposes of**  
4 **IC 12-14-5.4 and this chapter, has the meaning set forth in**  
5 **IC 35-48-1-9.**  
6 SECTION 2. IC 12-7-2-111 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 111. (a) "Immediate  
8 family", for purposes of the statutes listed in subsection (b), means the  
9 following:  
10 (1) If a Medicaid applicant is married, the applicant's spouse and  
11 dependent children less than twenty-one (21) years of age.  
12 (2) If a Medicaid applicant is not married, the following:  
13 (A) If the applicant is divorced, the parent having custody.  
14 (B) If the applicant is less than twenty-one (21) years of age:  
15 Ⓢ (i) the parent having custody; and  
16 (ii) the dependent children less than twenty-one (21) years

EH 1351—LS 7130/DI 110



of age of the parent or parents.

(C) If clauses (A) and (B) do not apply, the applicant's parents.

(b) ~~This section~~ **Subsection (a)** applies to the following statutes:

(1) IC 12-14-1 through IC 12-14-9.5, **except IC 12-14-5.4.**

(2) IC 12-15, except IC 12-15-32, IC 12-15-33, and IC 12-15-34.

(c) **"Immediate family", for purposes of IC 12-14-5.4, means any of the following:**

(1) A parent.

(2) A stepparent.

(3) A grandparent.

(4) A sibling who is at least twenty-one (21) years of age.

(5) A legal guardian.

SECTION 3. IC 12-7-2-189.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 189.9. "TANF assistance", for purposes of IC 12-14-5.4, means assistance under the federal Temporary Assistance for Needy Families program under 42 U.S.C. 601 et seq.**

SECTION 4. IC 12-7-2-190.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 190.1. "Tests negative" or "testing negative", for purposes of IC 12-14-5.4, means that an individual:**

(1) tests negative for the use of a controlled substance (as defined in IC 35-48-1-9) in the individual's body; or

(2) tests positive for the use of a controlled substance in the individual's body but has:

(A) a valid prescription; or

(B) an order of a practitioner acting in the course of the practitioner's professional practice;

**for the controlled substance.**

SECTION 5. IC 12-7-2-190.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 190.2. "Tests positive" or "testing positive", for purposes of IC 12-14-5.4, means an individual:**

(1) tests positive for the presence of a controlled substance (as defined in IC 35-48-1-9) in the individual's body; and

(2) does not possess:

(A) a valid prescription; or

(B) an order of a practitioner acting in the course of the practitioner's professional practice;

**for the controlled substance.**



SECTION 6. IC 12-14-5.4 IS ADDED TO THE INDIANA CODE  
AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
JULY 1, 2014]:

**Chapter 5.4. Drug Testing Program**

**Sec. 1. This chapter applies to an individual who:**

- (1) is eligible to receive TANF assistance or who receives TANF assistance on behalf of a child;
- (2) is at least eighteen (18) years of age; and
- (3) has been convicted of:
  - (A) a controlled substance offense under IC 35-48-4; or
  - (B) a substantially similar offense to the offense described in clause (A) in another jurisdiction;
 in the previous ten (10) years.

**Sec. 2. (a)** The office of the secretary shall develop and establish a program in accordance with this chapter to test for the illegal use of a controlled substance by an individual described in section 1 of this chapter.

**(b)** The office of the secretary shall implement a program established in accordance with this chapter not later than July 1, 2015.

**Sec. 3. An individual described in section 1 of this chapter shall be tested for the use of controlled substances:**

- (1) when the individual applies to receive TANF assistance; and
- (2) annually while the individual is receiving TANF assistance.

**Sec. 4. A county office shall provide the following information in writing to an individual described in section 1 of this chapter at the time the individual applies for TANF assistance:**

- (1) The individual is required to be tested for the use of controlled substances at the time of application and annually while receiving TANF benefits.
- (2) If the individual tests positive on a drug test administered under this chapter, the individual may be ineligible:
  - (A) for TANF assistance; and
  - (B) to receive TANF assistance on behalf of a child.
- (3) If the individual tests positive on a drug test administered under this chapter, the amount of the cost of the drug test will be withheld from any future TANF assistance the individual receives if the individual continues to receive TANF assistance.
- (4) If the individual tests positive on a drug test administered under this chapter, the amount of the cost of any subsequent



1 drug test the individual is required to undergo will be  
 2 withheld from the TANF assistance the individual receives, if  
 3 the individual continues to receive TANF assistance,  
 4 regardless of whether the individual tests positive or tests  
 5 negative on the subsequent drug test.

6 Sec. 5. A county office shall provide a list of drug abuse  
 7 treatment programs to any individual who tests positive under this  
 8 chapter.

9 Sec. 6. (a) An individual who tests positive under this chapter  
 10 and provides evidence that the individual is participating in a drug  
 11 abuse treatment program shall continue to receive TANF  
 12 assistance. However, the office of the secretary shall administer a  
 13 drug test to the individual regularly at intervals of at least twenty  
 14 (20) days and not more than thirty (30) days until the individual  
 15 tests negative in two (2) consecutive drug tests.

16 (b) If an individual does not test negative in two (2) consecutive  
 17 drug tests as described in subsection (a) within four (4) months  
 18 after the date the office of the secretary begins testing the  
 19 individual regularly under subsection (a), the individual is  
 20 ineligible to receive TANF assistance for three (3) months after the  
 21 date the office of the secretary determines that the individual is  
 22 unable to test negative on two (2) consecutive drug tests.

23 (c) If an individual:

24 (1) tests positive under this chapter; and  
 25 (2) fails to provide, not later than thirty (30) days after the  
 26 date the individual tests positive, evidence that the individual  
 27 is participating in a drug abuse treatment program;  
 28 the individual is ineligible to receive TANF assistance for three (3)  
 29 months after the thirty (30) day period described in subdivision (2).

30 (d) An individual who is ineligible under subsection (b) or (c)  
 31 may reapply for TANF assistance after the applicable three (3)  
 32 month ineligibility period. Upon reapplying, the individual must  
 33 test negative on a drug test before the individual may receive  
 34 TANF assistance.

35 (e) If an individual described in subsection (d) tests positive on  
 36 the drug test administered for the TANF reapplication process, the  
 37 individual is permanently ineligible to receive TANF assistance for  
 38 the individual.

39 Sec. 7. (a) An individual who:

40 (1) reapplies for TANF assistance under section 6(d) of this  
 41 chapter; and  
 42 (2) is eligible to receive TANF assistance;



1 is subject to random drug testing as described in subsection (b) for  
2 as long as the individual receives TANF assistance.

3 (b) The office of the secretary shall administer random drug  
4 tests to fifty percent (50%) of the pool of individuals described in  
5 subsection (a) each month.

6 (c) Section 6 of this chapter applies to an individual described  
7 in subsection (a) who tests positive on a subsequent drug test  
8 administered in accordance with this section.

9 Sec. 8. (a) An individual who is ineligible to receive TANF  
10 assistance under this chapter is ineligible to receive TANF  
11 assistance on behalf of another individual.

12 (b) Except as provided in section 9 of this chapter, if an  
13 individual is ineligible to receive TANF assistance under this  
14 chapter and the individual receives or will receive TANF assistance  
15 on behalf of a child, the following apply:

16 (1) The child's eligibility for TANF assistance is not affected.

17 (2) The individual may not receive TANF assistance on behalf  
18 of the child.

19 (3) Subject to subsection (e), the individual may designate an  
20 immediate family member of the child to act as a protective  
21 payee for the child.

22 (c) Subject to subsection (h), if an immediate family member of  
23 the child:

24 (1) is not available to act as the protective payee; or

25 (2) declines to act as the protective payee;

26 for the child, the ineligible individual described in subsection (b)  
27 may designate another individual, upon approval by the division,  
28 to act as a protective payee for the child.

29 (d) Subject to subsection (h), if an ineligible individual described  
30 in subsection (b) does not designate an immediate family member  
31 of the child or another individual to act as a protective payee for  
32 the child, the division shall designate an immediate family member  
33 or another individual to act as a protective payee for the child.

34 (e) Subject to subsections (h) and (i), an immediate family  
35 member of the child or another individual designated as a  
36 protective payee under this section shall:

37 (1) receive TANF assistance on behalf of the child; and

38 (2) act as a protective payee in regard to the TANF assistance  
39 received on behalf of the child.

40 (f) An immediate family member of the child or another  
41 individual who is designated as a protective payee for the child  
42 shall undergo a drug test before the family member or individual



may act as a protective payee under this section.

(g) The immediate family member or individual described in subsection (f) shall pay the cost of the drug test under subsection (f).

(h) If the immediate family member or individual described in subsection (f) tests positive on the drug test or fails to pay the cost of the drug test under subsection (g), the immediate family member or individual may not act as a protective payee for the child.

(i) An immediate family member of the child or another individual who has been designated as a protective payee of the child may not continue to act as a protective payee for the child under this chapter if the immediate family member or individual is charged with a felony while the immediate family member or individual is receiving TANF assistance on behalf of a child under this chapter.

**Sec. 9. (a) If an individual:**

(1) is ineligible to receive TANF assistance under this chapter;

(2) was not a parent or guardian of a child at the time the individual became ineligible to receive TANF assistance as described in subdivision (1);

(3) becomes a parent or guardian of a child after the individual becomes ineligible to receive TANF assistance as described in subdivision (1); and

(4) tests negative on a drug test administered by the office of the secretary;

the individual may receive TANF assistance on behalf of the child.

(b) An individual described in subsection (a) is subject to random drug testing as described in section 7(b) of this chapter for as long as the individual receives TANF assistance on behalf of the child.

(c) If an individual described in subsection (a) tests positive on a drug test administered by the office of the secretary, the individual may not receive TANF assistance on behalf of the child and a protective payee must be designated for the child as provided in section 8 of this chapter.

**Sec. 10. (a) Except as provided in section 8(g) of this chapter and subsections (b) and (c), the office of the secretary shall pay the costs of a drug test administered under this chapter.**

(b) If an individual tests positive on a drug test administered under this chapter, the office of the secretary shall withhold the amount of the cost of the drug test from the next payment of TANF assistance the individual receives if the individual receives TANF





1 assistance.

2 (c) If an individual tests positive on a drug test administered  
3 under this chapter, the office of the secretary shall withhold the  
4 amount of the cost of any subsequent drug tests that the individual  
5 is required to undergo from the next payment of TANF assistance  
6 the individual receives if that individual receives TANF assistance.

7 Sec. 11. (a) This chapter is subject to administrative hearing  
8 procedures under IC 4-21.5.

9 (b) The program under this chapter must include an appeals  
10 process for individuals.

11 Sec. 12. A drug test administered under the program must be  
12 performed by a:

- 13 (1) SAMHSA (as defined in IC 22-10-15-3) clinical laboratory;
- 14 or
- 15 (2) clinical laboratory holding a federal Clinical Laboratory
- 16 Improvement Act (CLIA) certificate or a CLIA certificate of
- 17 accreditation.

18 Sec. 13. The office of the secretary shall notify the department  
19 of child services regarding a child who has had an immediate  
20 family member or other individual designated as a protective  
21 payee under this chapter.

22 Sec. 14. The office of the secretary shall provide to:

- 23 (1) the Indiana housing and community development
- 24 authority established by IC 5-20-1-3; and
- 25 (2) any division of the office of the secretary that implements
- 26 SNAP (as defined as IC 12-14-30-1);

27 the name of an individual who has tested positive under this  
28 chapter.

29 Sec. 15. The office of the secretary's records concerning the  
30 results of a drug test under this article may not be admitted against  
31 a defendant in a criminal proceeding.

32 Sec. 16. The office of the secretary shall collect data to assess  
33 and ensure that there is no discrimination based on race, ethnicity,  
34 or sex regarding the pool of individuals who are drug tested under  
35 the program established under this chapter.

36 Sec. 17. The office of the secretary may adopt rules under  
37 IC 4-22-2 necessary to implement this article.

38 SECTION 7. IC 12-14-30-3 IS ADDED TO THE INDIANA CODE  
39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
40 1, 2014]: Sec. 3. (a) The division shall establish a statewide program  
41 that prohibits TANF assistance from being used for any food, food  
42 product, or beverage that is not permitted to be purchased under



1 the SNAP program.

2 (b) If the division determines that federal approval is needed to  
3 implement the statewide program described in this section, the  
4 division shall request federal approval of the statewide program  
5 and implement the statewide program not later than thirty (30)  
6 days after the required approval is obtained.

7 (c) The division may adopt rules under IC 4-22-2 necessary to  
8 implement this section.

9 SECTION 8. [EFFECTIVE UPON PASSAGE] (a) The department  
10 of workforce development shall, before July 1, 2014, submit a  
11 report to the legislative council concerning the options available to  
12 the state, including the possibility of a waiver from the federal  
13 government, to condition the receipt of unemployment benefits,  
14 after the sixth week during which the benefits are received, on a  
15 recipient being required to choose one (1) of the following:

16 (1) Enrolling in a training program that will result in an  
17 industry recognized certificate.

18 (2) Working on projects that are assigned by and benefit the  
19 county or municipality in which the recipient resides.

20 The report must be in an electronic format under IC 5-14-6.

21 (b) This SECTION expires July 1, 2015.

22 SECTION 9. An emergency is declared for this act.



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1351, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 6 through 9.

Page 3, delete lines 5 through 18.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1351 as introduced.)

KUBACKI, Chair

Committee Vote: yeas 8, nays 4.

## HOUSE MOTION

Mr. Speaker: I move that House Bill 1351 be amended to read as follows:

Page 8, line 30, delete "pilot" and insert "**statewide**".

Page 8, line 39, delete "pilot" and insert "**statewide**".

Page 8, line 40, delete "pilot" and insert "**statewide**".

Page 8, line 41, delete "pilot" and insert "**statewide**".

(Reference is to HB 1351 as printed January 24, 2014.)

MCMILLIN

## COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1351, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 7, delete "and".

Page 3, line 8, delete "." and insert "; **and**

**(3) has been convicted of:**

EH 1351—LS 7130/DI 110



**(A) a controlled substance offense under IC 35-48-4; or  
(B) a substantially similar offense to the offense described  
in clause (A) in another jurisdiction;  
in the previous ten (10) years."**

Page 3, line 16, after "shall" insert **"be tested for the use of  
controlled substances:**

**(1) when the individual applies to receive TANF assistance;  
and  
(2) annually while the individual is receiving TANF  
assistance."**

Page 3, delete lines 17 through 18.

Page 3, line 22, delete "take a written or electronic" and insert **"be  
tested for the use of controlled substances at the time of application  
and annually while receiving TANF benefits."**

Page 3, delete lines 23 through 29.

Page 3, line 30, delete "(4)" and insert **"(2)"**.

Page 3, line 34, delete "(5)" and insert **"(3)"**.

Page 3, line 39, delete "(6)" and insert **"(4)"**.

Page 4, delete lines 4 through 33.

Page 4, line 34, delete "8." and insert **"5."**

Page 4, line 37, delete "9." and insert **"6."**

Page 5, line 25, delete "10." and insert **"7."**

Page 5, line 26, delete "9(d)" and insert **"6(d)"**.

Page 5, line 34, delete "9" and insert **"6"**.

Page 5, delete lines 37 through 40.

Page 5, line 41, delete "12." and insert **"8."**

Page 6, line 2, delete "13" and insert **"9"**.

Page 6, line 3, delete "permanently".

Page 7, line 6, delete "13." and insert **"9."**

Page 7, line 18, delete "10(b)" and insert **"7(b)"**.

Page 7, line 25, delete "12" and insert **"8"**.

Page 7, line 26, delete "14." and insert **"10."**

Page 7, line 26, delete "12(g)" and insert **"8(g)"**.

Page 7, line 39, delete "15." and insert **"11."**

Page 8, line 1, delete "16." and insert **"12."**

Page 8, line 8, delete "17." and insert **"13."**

Page 8, line 12, delete "18." and insert **"14."**

Page 8, line 19, delete "19." and insert **"15."**

Page 8, line 22, delete "20." and insert **"16."**

Page 8, line 26, delete "21." and insert **"17."**

Page 8, line 30, after "program" insert **"that prohibits TANF  
assistance from being used for any food, food product, or beverage**



**that is not permitted to be purchased under the SNAP program."**

Page 8, delete lines 31 through 37.

Page 8, line 38, delete "(c)" and insert "**(b)**".

Page 9, line 1, delete "(d)" and insert "**(c)**".

Page 9, line 5, delete "and the unemployment insurance".

Page 9, line 6, delete "oversight committee".

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to HB 1351 as reprinted January 28, 2014.)

MILLER PATRICIA, Chairperson

Committee Vote: Yeas 6, Nays 3.

---

#### COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred House Bill No. 1351, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB 1351 as printed February 2, 2014.)

Committee Vote: Yeas 7, Nays 4

Senator Kenley, Chairperson

